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SHANGHAI PINQI DIGITAL TECHNOLOGY CO., LTD.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

PQ LABS, INC., a California corporation, and  
SHANGHAI PINQI DIGITAL TECHNOLOGY  
CO., LTD., a Chinese corporation,

Plaintiffs,

v.

YANG QI, an individual, ZAAGTECH INC., a  
Chinese corporation, JINPENG LI, an  
individual, and HAIPENG LI, an individual,

Defendants.

Case No.: 12-cv-00450-CW

**3<sup>rd</sup> AMENDED COMPLAINT FOR  
DAMAGES, INJUNCTIVE,  
DECLARATORY, AND OTHER RELIEF  
DEMAND FOR JURY TRIAL**

Plaintiffs PQ Labs, Inc. and Shanghai PinQi Digital Technology Co., Ltd. (collectively,  
“Plaintiffs”), for their 3<sup>rd</sup> Amended Complaint against Yang Qi, ZaagTech Inc., Jinpeng Li, and  
Haipeng Li, allege as follows:

**PARTIES**

1. Plaintiff PQ Labs (“PQ Labs”) is a California corporation with its principal place of business at 2150 Trade Zone Boulevard, Suite 104, San Jose, CA 95131.

2. Plaintiff Shanghai PinQi Digital Technology Co., Ltd. is a Chinese corporation and wholly-owned subsidiary of PQ Labs with its principal place of business at 10/F, No. 11 Lane 4666, Gonghexinlu, Zhabei District, Shanghai, China. Shanghai PinQi Digital Technology Co., Ltd. is listed in Chinese characters as “上海品奇数码科技有限公司.” Shanghai PinQi Digital Technology Co., Ltd. is sometimes referred to by the shorthand “PinQi” as “PinQi” is the Chinese translation of “PQ.” In this 3<sup>rd</sup> Amended Complaint (“Complaint”), Shanghai PinQi Digital Technology Co., Ltd. shall also be referred to as “PinQi.”

3. PQ Labs and PinQi are also referred to individually as a “Plaintiff” and collectively as the “Plaintiffs” herein.

4. On information and belief, Yang Qi is an individual residing in China who has done business, including wrongful actions alleged herein, in the State of California and in this District.

5. On information and belief, ZaagTech Inc. (“ZaagTech”) is a Chinese corporation with its principal place of business at 699 Qingtong Road, Huzhou, Zhejiang, China, which has done business, including wrongful actions alleged herein, in the State of California and in this District.

6. On information and belief, Jinpeng Li is an individual residing in China who has done business, including wrongful actions alleged herein, in the State of California and in this District.

7. On information and belief, Haipeng Li is an individual residing in California who has done business, including wrongful actions alleged herein, in the State of California and in this District.

8. Yang Qi, ZaagTech, Jinpeng Li, and Haipeng Li shall also be referred to individually as a “Defendant” and the named “Defendants” herein.

**JURISDICTION**

9. This is a civil action presenting claims for, *inter alia*, copyright infringement arising under the copyright laws of the United States, Title 17 of the United States Code, the Copyright Act, trademark infringement, false advertising, and unfair competition under the trademark laws of the

1 United States, Title 15 of the United States Code, the Lanham Act, and violation of the federal  
2 Computer Fraud and Abuse Act, 18 U.S.C. § 1030. Thus, the Court has subject matter jurisdiction  
3 over the claims of this action pursuant to 28 U.S.C. §§ 1331 and 1338.

4 10. Further, this is a civil action presenting claims for, *inter alia*, misappropriation of  
5 trade secrets, unfair competition, fraud, breach of contract, tortious interference with prospective  
6 economic advantage, conversion, trespass to chattels, and violation of Cal. Pen. Code § 502, all  
7 arising under the laws of the State of California. All California state law claims alleged herein arise  
8 under the same nucleus of operative facts as the federal causes of action, and are therefore part of the  
9 same case or controversy as the federal causes of action. Accordingly, the Court has supplemental  
10 jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

11 11. The Court has personal jurisdiction over Defendants because each Defendant has  
12 maintained certain minimum contacts with California such that the exercise of jurisdiction over each  
13 Defendant would not offend traditional notions of fair play and substantial justice.

#### 14 VENUE

15 12. Venue in the Northern District of California is proper pursuant to 28 U.S.C. § 1391(a)  
16 because a substantial part of the events giving rise to this action occurred here.

#### 17 INTRADISTRICT ASSIGNMENT

18 13. This is an Intellectual Property Action subject to district-wide assignment in San  
19 Francisco, Oakland, or San Jose pursuant to Local Rule 3-2(c).

#### 20 FACTUAL BACKGROUND

21 14. PQ Labs is a corporation engaged in the business of designing, developing,  
22 manufacturing, and selling computer touch screen products, and was organized under the laws of the  
23 State of California on or about November 17, 2008. PQ Labs, in conjunction with its subsidiary  
24 PinQi, designs, develops and produces both hardware and software for its touch screen products.

25 15. PQ Labs authored software and registered with the United States Copyright Office the  
26 work entitled PQ Labs MultiTouch System Software as Registration No. TXu 1-620-335. The  
27 software embodied in this copyright registration works with PQ Labs hardware circuitry and  
28

1 microchips to produce the user interface of its touch screen products. A copy of the registration is  
2 attached hereto as Exhibit A.

3 16. In or around 2009, PQ Labs employed Yang Qi to work in its San Jose, California  
4 office as a sales representative and account manager, handling, among other things, sales of PQ Labs  
5 products. In this capacity, Yang Qi acted for the benefit of PQ Labs during his time as account  
6 manager, overseeing PQ Labs customer accounts, handling sales of PQ Labs touch screen products  
7 for profit to PQ Labs, and completing orders between PQ Labs and its customers. Yang Qi worked  
8 at PQ Labs' office in San Jose, California and had access to PQ Labs customer information, and PQ  
9 Labs controlled the assignments on which Yang Qi worked and accounts Yang Qi handled. PQ Labs  
10 additionally sponsored Yang Qi's work visa.

11 17. In or around 2009, PQ Labs' subsidiary PinQi engaged Jinpeng Li to join its  
12 operations and work as an engineer designing hardware for its touch screen products. On or about  
13 June 3, 2009, Jinpeng Li signed an Employment Contract and Employee Rules and Confidentiality  
14 Agreement with PinQi. Copies of these contracts are attached hereto as Exhibit B. Section 4 of the  
15 Employee Rules and Confidentiality Agreement calls for Jinpeng Li, as employee, to protect the  
16 confidentiality of company information and trade secrets, including specifically customer  
17 information and drawings and diagrams of products and software in development. During his  
18 employment with PinQi, Jinpeng Li obtained detailed, confidential information and working  
19 knowledge of PQ Labs' products, including information regarding hardware and circuitry design,  
20 and software code which constitute trade secrets under California's trade secret laws.

21 18. In or around January 2010, Yang Qi devised and began implementation of a plan to  
22 use his access to and thereby misappropriate Plaintiffs' confidential information, including customer  
23 contacts obtained from PQ Labs through his work at PQ Labs and hardware designs and software  
24 code, in order to create his own computer touch screen business in direct competition with PQ Labs,  
25 poach PQ Labs customers, interfere with PQ Labs business and divert the same to ZaagTech for  
26 Defendants' commercial gain. Yang Qi, having expressed displeasure that he was not being paid by  
27 PQ Labs in accordance with his self-assessed worth, included in his elaborate plan the modality of  
28 creating a sham, unauthorized distributor company to siphon sales from PQ Labs to said distributor

1 company and also to establish a separate company designing, producing, and selling touch screen  
2 products to directly compete with PQ Labs. The foregoing scheme is hereinafter referred to  
3 generally as the “Plan.”

4 19. In or about January 2010, Yang Qi contacted Jinpeng Li and solicited and obtained  
5 Jinpeng Li’s agreement to participate in, assist, encourage, and/or otherwise support the Plan.  
6 Among other things, during Internet chat conversations, Jinpeng Li shared with Yang Qi at Yang  
7 Qi’s urging certain of Plaintiffs’ confidential, trade secret computer files containing schematics and  
8 design drawings for the newest circuitry and hardware for PQ Labs touch screen prototypes and  
9 multi-touch software code (collectively, the “Trade Secrets”). These Trade Secrets pertained to  
10 products still in development in PQ Labs’ labs and not yet in manufacture or available to the public  
11 or the touch screen industry. At all times material hereto, Plaintiffs made reasonable efforts to  
12 preserve the confidentiality of the Trade Secrets that Jinpeng Li wrongfully transmitted to Yang Qi.

13 20. Also in or about January 2010, Yang Qi contacted his acquaintance Qiang Ma to  
14 solicit and did in fact obtain his agreement to participate in, assist, encourage, and/or otherwise  
15 support the Plan, including the idea of producing touch screen products and offering Qiang Ma an  
16 opportunity to go in on the business with him. Among other things, during Internet chat  
17 conversations, Yang Qi told Qiang Ma that he had obtained the Trade Secrets. In addition, Yang Qi  
18 sent to Qiang Ma copies of at least four confidential Plaintiffs files containing hardware and circuitry  
19 designs. Qiang Ma agreed to work on the software algorithm corresponding to the hardware and  
20 circuitry in order to produce the competitive touch screen products.

21 21. Also in or about January 2010, Yang Qi contacted Haipeng Li to solicit and did in  
22 fact obtain Haipeng Li’s agreement to participate in, assist, encourage, and/or otherwise support the  
23 Plan, in particular discussing the idea of creating a distributorship to divert customers away from  
24 buying from PQ Labs directly and instead to buy from Yang Qi’s distributorship. Yang Qi  
25 instructed Haipeng Li, and Haipeng Li agreed, to register a company to serve as the nominal  
26 distributor, set up a bank account for the company, and set up a website for the company. Haipeng  
27 Li stated that they should be careful in setting up and operating the company as they would be taking  
28

1 customers away from PQ Labs, and that Yang Qi should take care not to let his boss find out. Yang  
2 Qi and Haipeng Li agreed to split profits from the distributorship on a 70/30 basis.

3       22. As part of the Plan, MultiTouch Group LLC was established in Delaware on or about  
4 January 27, 2010 as the distributorship company to be used to compete and interfere with PQ Labs'  
5 business. Among other things, MultiTouch Group LLC would exist simply to sit and wait for a  
6 customer to contact PQ Labs with an order, receive the order diverted from PQ Labs by Yang Qi,  
7 and subsequently fulfill the order and receive the retail price from the customer while giving to PQ  
8 Labs a much lower wholesale cut of the payment for its role in producing the product. When  
9 customers contacted PQ Labs for ordering information, Yang Qi directed the customers to  
10 MultiTouch Group LLC without PQ Labs' authorization, and the customers made payment to  
11 MultiTouch Group LLC instead of PQ Labs. A passive, shell vehicle for the Plan, MultiTouch  
12 Group LLC undertook no affirmative action during its existence to seek out new customers or find  
13 new business, nor was it ever authorized by PQ Labs to act as its distributor. PQ Labs did not have  
14 knowledge of the creation of MultiTouch Group LLC or its actions in dealing with PQ Labs  
15 customers and misdirecting orders until it terminated Yang Qi's position with the company.

16       23. In or around January 2010, in furtherance of the Plan, Jinpeng Li wrongfully provided  
17 to Yang Qi, and Yang Qi accepted, copies of Plaintiffs' confidential field-programmable gate array  
18 (FPGA) microchip and FPGA microchip controller code, as well as driver code and ARM processor  
19 code, of course without Plaintiffs' knowledge or authorization. Also in furtherance of the Plan,  
20 Yang Qi subsequently sent copies of this PQ Labs code to his acquaintance Bin Liang, who accepted  
21 this trade secret information via Internet chat to incorporate into competing touch screen products.

22       24. On information and belief, in furtherance of the Plan, Yang Qi and his company  
23 ZaagTech agreed to and did in fact copy PQ Labs' FPGA software, driver code, and ARM processor  
24 code registered with the Copyright Office in its touch screen products designed and manufactured  
25 after the establishment of ZaagTech. With the development of later products, Yang Qi and  
26 ZaagTech have also been producing derivative works of PQ Labs' software registered with the  
27 Copyright Office, using the modified software in subsequent touch screen products.  
28

1           25.     On or around February 8, 2010, Yang Qi sent an email to a PQ Labs customer to  
2     contact MultiTouch Group LLC in order to process payment of the sale of a PQ Labs product. Prior  
3     to Yang Qi's misdirection of this sale, said customer was not a customer of MultiTouch Group LLC,  
4     and this customer had originally contacted PQ Labs directly for purposes of ordering a PQ Labs  
5     product. Yang Qi acted to divert the sale of a PQ Labs touch screen product from PQ Labs to  
6     MultiTouch Group LLC, selling the product to this customer for \$3,300. Yang Qi paid \$2,650 to PQ  
7     Labs, presumably for the product sold to this customer, keeping the difference of \$650 for himself  
8     and Haipeng Li. MultiTouch Group LLC's action in selling PQ Labs' product to the customer and  
9     acting as an intermediary was without authorization or knowledge of PQ Labs and, on information  
10    and belief, was done in furtherance of the Plan to establish Multitouch Group LLC as a player in the  
11    touch screen business.

12           26.     Also in furtherance of the Plan, in or about February 2010, Yang Qi wrongfully  
13    diverted to MultiTouch Group LLC emails from two PQ Labs customers requesting to purchase PQ  
14    Labs products.

15           27.     In or about April 2010, PQ Labs became suspicious that Yang Qi was  
16    misappropriating company trade secrets. On or around April 26, 2010, PQ Labs terminated Yang  
17    Qi's services, thereby frustrating his ability to misdirect sales leads from PQ Labs to MultiTouch  
18    Group LLC.

19           28.     After having his position terminated by PQ Labs, Yang Qi persisted in the Plan to co-  
20    opt PQ Labs business and directly compete with PQ Labs in the touch screen business by returning  
21    to China to continue the establishment and running of the company ZaagTech in or about 2010.

22           29.     On or around August 10, 2010, a certificate of cancellation for MultiTouch Group  
23    LLC was filed in Delaware, indicating that the company was no longer doing business. *See* Exhibit  
24    C.

25           30.     In part to replace Yang Qi, PQ Labs hired Andy Nguyen in or about May 2010 as a  
26    sales and account manager. Andy Nguyen signed both an Employment Agreement and an Employee  
27    Confidentiality Agreement, each dated May 28, 2010, when he joined PQ Labs at its San Jose,  
28    California office. Copies of the contracts are attached hereto as Exhibit D. Section D of the



1 Employment Agreement provides, among other things, that the employee Andy Nguyen shall not  
2 disclose any confidential information of the employer PQ Labs during his employment or for a  
3 period of three years after termination of employment. Included in the definition of confidential  
4 information in Section D of the Employment Agreement are information regarding PQ Labs'  
5 business methods, and sales information of any kind, including trade secrets such as, *inter alia*,  
6 customers lists or related customer information. Section J of Andy Nguyen's Employment  
7 Agreement states that in the event of breach of the contract provisions on confidentiality, PQ Labs  
8 shall be entitled to enjoin Andy Nguyen from continuing such a breach, to seek damages, and obtain  
9 indemnification for attorney's fees incurred in such enforcement.

10         31. Section 1 of the Employee Confidentiality Agreement states that Andy Nguyen shall  
11 not disclose any of PQ Labs' proprietary information and shall hold such information in strict  
12 confidence. This agreement defines proprietary information to include trade secrets and information  
13 regarding suppliers and customers. Section 12 of the Employee Confidentiality Agreement provides  
14 PQ Labs the right to enforce the contract against Andy Nguyen in the event of breach by injunction,  
15 specific performance, and recovery of damages. Section 14.5 holds that the Agreement shall survive  
16 the termination of Andy Nguyen's employment, meaning Andy Nguyen could not disclose  
17 proprietary information even after leaving his post at PQ Labs.

18         32. In or about June 2011, Andy Nguyen left his employment at PQ Labs. Prior to  
19 leaving PQ Labs, Andy Nguyen copied all accessible company files onto a personal portable hard  
20 drive, and became derelict in his duties of fulfilling and reporting on sales orders of PQ Labs  
21 products.

22         33. Beginning just before or about June 2011, around the time of Andy Nguyen leaving  
23 PQ Labs, PQ Labs' customers and key distributors were solicited via email by ZaagTech in  
24 furtherance of the Plan. In each case ZaagTech offered its "own" touch screen products for sale,  
25 though the customers had never been contacted by ZaagTech before, had never provided contact  
26 information to ZaagTech, and had no idea who ZaagTech was and asked PQ Labs officers if they  
27 had heard of ZaagTech. Quite plainly, ZaagTech was wrongfully utilizing PQ Labs' trade secret  
28 customer information which had been wrongfully misappropriated by ZaagTech and those other



1 Defendants named herein who were participating in, assisting, encouraging, and/or otherwise  
2 supporting the Plan, as alleged herein.

3       34. On or around November 30, 2010, ZaagTech, using the email address of one Lobo  
4 Yan, contacted a PQ Labs customer in an effort to offer ZaagTech's products for sale. That  
5 customer was not publicly known to be a customer of PQ Labs, had never given contact information  
6 to ZaagTech, and had never heard of ZaagTech prior to the solicitation. Once again ZaagTech was  
7 wrongfully utilizing PQ Labs' trade secret customer information that was wrongfully  
8 misappropriated by ZaagTech and those other Defendants named herein who participated in,  
9 assisted, encouraged, and/or otherwise supported the Plan.

10       35. On or around December 19, 2010, and in furtherance of the Plan, Lobo Yan at  
11 ZaagTech sent a solicitation email to PQ Labs' actual distributor in the Middle East. Said distributor  
12 was not publicly known to be a distributor of PQ Labs, had never given contact information to  
13 ZaagTech, and had never heard of ZaagTech prior to the solicitation. This customer information  
14 was PQ Labs' trade secret.

15       36. On or about January 6, 2011, and in furtherance of the Plan, Lobo Yan at ZaagTech  
16 sent a solicitation email to another customer of PQ Labs that uses PQ Labs technology in its own  
17 products. That customer was not publicly known to be a customer of PQ Labs, had never provided  
18 ZaagTech with contact information, and had never heard of ZaagTech prior to the solicitation. This  
19 customer information was PQ Labs' trade secret.

20       37. On or around January 9, 2011, Lobo Yan at ZaagTech sent yet another solicitation  
21 email, this time to PQ Labs' actual distributor in the U.S. This distributor was not publicly known to  
22 be a distributor of PQ Labs, had never provided contact information to ZaagTech, and had never  
23 heard of ZaagTech prior to the solicitation. This customer information was PQ Labs' trade secret.

24       38. On information and belief, in or about June 2011 or just before, Andy Nguyen  
25 disclosed PQ Labs' trade secrets in the form of confidential customer lists to Yang Qi and ZaagTech  
26 in exchange for monetary or other compensation. Yang Qi and ZaagTech subsequently used these  
27 customer lists to directly contact PQ Labs customers in an effort to lure customers from PQ Labs and  
28 to ZaagTech.

1           39. On or about August 29, 2011, PQ Labs' distributor in Europe was contacted by email  
2 by Lobo Yan at ZaagTech marketing ZaagTech's touch screen products. That distributor was not  
3 publicly known as a distributor of PQ Labs, had never given contact information to ZaagTech, and  
4 had never heard of ZaagTech prior to the email solicitation. This customer information was PQ  
5 Labs' trade secret.

6           40. On or around November 30, 2011, Lobo Yan at ZaagTech solicited business from a  
7 PQ Labs customer. The solicitation email chain between ZaagTech and that customer shows Yang  
8 Qi as a member of the ZaagTech team, and inadvertently was sent to Yang Qi's email address at PQ  
9 Labs. That customer was not publicly known to be a customer of PQ Labs, had not provided contact  
10 information to ZaagTech, and had not heard of ZaagTech prior to the email solicitation. This  
11 customer information was PQ Labs' trade secret.

12           41. On information and belief, Yang Qi, ZaagTech, and Jinpeng Li have sent several  
13 phishing emails to PQ Labs seeking to extract further confidential and proprietary information from  
14 PQ Labs' networks. Among other things, on or about January 27, 2011, an email was sent to PQ  
15 Labs CEO Frank Lu requesting help with a file attachment. On or about January 25, 2011, an email  
16 was sent to Frank Lu requesting information regarding a username and password. On or about April  
17 1, 2011, an email was sent to PQ Labs' engineers, U.S. sales team, and China sales team regarding a  
18 touch screen trade show. On or about April 22, 2011, an email was sent to PQ Labs' support address  
19 by a sender purporting to be a PQ Labs customer in Singapore. On or about April 22, 2011, an email  
20 was sent to Wei Lu, manager at PQ Labs' San Jose office, by a sender purporting to be a PQ Labs  
21 customer in Japan. On or about December 13, 2011, an email containing a resignation letter was  
22 sent to Frank Lu by a sender purporting to be a PQ Labs employee. The emails made reference to  
23 information that only a PQ Labs employee or former employee would know. On information and  
24 belief, these phishing emails contained computer viruses and Trojans that infected PQ Labs  
25 computers on at least one occasion and afforded Defendants access to PQ Labs' proprietary  
26 information upon being opened by their recipients, and caused damage to PQ Labs' networks.

27           42. PQ Labs lawfully and properly owns valuable rights in the trademark PQ LABS, and  
28 has obtained substantial goodwill in the trademark as a result of PQ Labs' extensive and continuous

1 use in interstate commerce of the mark since at least as early as December 1, 2008, by, *inter alia*,  
2 advertising and promoting of PQ Labs products using the mark, and selling products bearing the  
3 mark. Additionally, PQ Labs lawfully and properly owns a U.S. federal trademark registration for  
4 the mark PQ LABS, Registration No. 4075660, in International Class 009 for, *inter alia*, “Computer  
5 monitors; Computer peripheral devices; Computer touchscreens; Digital signage monitors; Input  
6 devices for computers; Touch panels; Computer whiteboards.” A copy of the certificate of  
7 registration for U.S. Registration No. 4075660 is attached hereto as Exhibit E. The United States  
8 Patent and Trademark Office (“USPTO”) registered PQ Labs’ PQ LABS trademark on December  
9 27, 2011. PQ Labs uses the PQ LABS mark in interstate commerce on and in connection with its  
10 touch screen products, and marketing and sale of said touch screen products, among other things.  
11 *See* Exhibit F.

12 43. On information and belief, Defendant ZaagTech is holding itself out in the online  
13 marketplace as a supplier or manufacturer of touch screen products for PQ Labs and using the PQ  
14 LABS mark and brand. On several websites, including tradvv.com and hisupplier.com, on  
15 information and belief, Defendant asserts it is a manufacturer or exporter of PQ Labs touch screen  
16 products, suggesting a connection with PQ Labs that does not exist. *See* Exhibit G. Further,  
17 Defendant is using the mark and brand PQ LABS to advertise and offer for sale ZaagTech touch  
18 screen products, thereby misleading consumers into believing they may purchase PQ Labs-related  
19 and PQ Labs-affiliated products from ZaagTech. On one website, Defendant asserts that ZaagTech  
20 is “PQ labs manufacturer and exporter in China.” On another website, Defendant holds out that  
21 ZaagTech is “China PQ labs Manufacturer.” On information and belief, Defendant has caused these  
22 assertions and this use of the PQ LABS mark and brand to enter into interstate commerce by posting  
23 the aforesaid unlawful advertising and assertions on websites which are accessible to consumers  
24 throughout the U.S., and which direct consumers to a means of purchasing ZaagTech products. PQ  
25 Labs has never authorized or otherwise utilized ZaagTech to operate as its manufacturer, and PQ  
26 Labs has never authorized ZaagTech to use the PQ LABS name or brand in connection with  
27 ZaagTech’s sale, advertising, or promotion of ZaagTech touch screen products or in any other  
28

1 respect. Based on the foregoing, Defendant's use of the mark PQ LABS will undeniably create the  
2 likelihood of confusion amongst consumers.

3 44. As a result of Defendants' actions in pursuing the Plan to establish a competing  
4 business by using PQ Labs' trade secrets, copyrights, trademarks, and proprietary design  
5 information, PQ Labs has had to lower the prices of its products and has also lost customers, all  
6 causing significant economic damage to PQ Labs. Among other things, and as a direct result of the  
7 undercutting by ZaagTech and the Defendants identified herein as participating in the Plan, PQ Labs  
8 was forced to try to mitigate its damages and preserve its very viability by lowering prices by 30%  
9 starting in August 2011 and continuing through the present. For the fiscal year 2011, PQ Labs'  
10 gross profits have substantially declined as a result of the actions of Yang Qi and ZaagTech and the  
11 other Defendants identified above who have participated in, assisted, encouraged, and/or otherwise  
12 supported the Plan.

13 **CLAIM 1 FOR MISAPPROPRIATION OF TRADE SECRETS**

14 **BY PQ LABS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

15 45. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 44 of this  
16 Complaint as though fully set forth herein.

17 46. PQ Labs owned customer lists and information for its products from which it  
18 obtained independent economic value from the fact that, among other things, said lists and  
19 information were not generally known to the public or to the touch screen industry and PQ Labs  
20 utilized this trade secret information to sell its products to customers, generate revenues, and  
21 generate profits. In this further regard, the confidential lists provided PQ Labs with the economic  
22 benefit of having a pool of known customers to which it could sell and market its products without  
23 interference from competitors, and about which it owned ready-to-use pricing and sales strategies  
24 and information.

25 47. PQ Labs' customer lists and information were not generally known to the public or  
26 touch screen industry. PQ Labs did not publicize its customer lists, and its customers and  
27 distributors rebranded PQ Labs products and technology in creating their own products.  
28

1           48.     PQ Labs expended reasonable efforts to maintain the secrecy of its customer lists and  
2 information by, among other things, requiring employees to sign confidentiality agreements  
3 explicitly prohibiting disclosure of customer lists, by limiting the number of employees with  
4 knowledge of the customer lists, and by communicating to staff the confidentiality of this  
5 information and need to maintain the same. No more than four individuals had knowledge of PQ  
6 Labs' customer lists during the relevant time period. PQ Labs limited access to the customer lists on  
7 a need to know basis.

8           49.     PQ Labs' therefore owned a valuable trade secret in the form of its confidential  
9 customer lists and information related to the customers thereon.

10          50.     On information and belief, Andy Nguyen misappropriated PQ Labs' trade secret  
11 customer information by disclosing the customer lists to Yang Qi and ZaagTech.

12          51.     On information and belief, ZaagTech, and Yang Qi and Jinpeng Li, officers of  
13 ZaagTech, misappropriated PQ Labs' trade secret customer information by taking this information  
14 with knowledge that Andy Nguyen had acquired the trade secret by improper means, namely, by  
15 breaching his duty as employee of PQ Labs to keep the customer lists secret. Further, on  
16 information and belief, Yang Qi, ZaagTech, and Jinpeng Li misappropriated PQ Labs' trade secret  
17 customer information by using the trade secret without PQ Labs' express or implied consent, and  
18 because the trade secret was obtained from Andy Nguyen who was under a duty not to disclose the  
19 trade secret.

20          52.     As a result of Andy Nguyen's disclosure and Defendants' acquisition and use of PQ  
21 Labs' trade secret, PQ Labs has suffered a loss in customers, sales, revenues, and profits. Yang Qi  
22 and ZaagTech have been able to poach certain of PQ Labs' customers by using PQ Labs' trade  
23 secret customer lists to contact such customers. But for Defendants' misappropriation of the  
24 customer lists, PQ Labs' customers would not have been contacted by ZaagTech and PQ Labs would  
25 not have lost customers, sales, revenues, and profits as a result of solicitation from ZaagTech. The  
26 damage sustained by PQ Labs as a result of the misappropriation of its trade secrets is ongoing and  
27 continuous because ZaagTech continues to contact PQ Labs customers. PQ Labs is thus entitled to  
28 and prays for the relief of, among other things, an injunction preventing ZaagTech from contacting

1 PQ Labs customers, compensatory damages in the amount of business lost as a result of the  
2 misappropriation, recovery of Defendants' unjust enrichment as a result of the misappropriation, and  
3 punitive damages and attorneys' fees for the Defendants' willful and malicious misappropriation.

4 **CLAIM 2 FOR MISAPPROPRIATION OF TRADE SECRETS**

5 **BY PLAINTIFFS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

6 53. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 52 of this  
7 Complaint as though fully set forth herein.

8 54. Plaintiffs owned the Trade Secrets identified hereinabove, and specifically in  
9 Paragraph 19, including confidential designs and drawings for hardware, circuitry, and FPGA  
10 microchip, as well as multi-touch software code for its touch screen products. Prior to Defendants'  
11 misappropriation of these Trade Secrets, these designs, drawings, and code were not generally  
12 known to the public or the touch screen industry as Plaintiffs did not publicize this information, nor  
13 had Plaintiffs begun to manufacture and sell products containing this technology and information.  
14 Indeed, portions of the technology embodied in the designs and drawings for hardware and circuitry  
15 and software code were still being engineered in Plaintiffs' labs.

16 55. The Trade Secrets identified hereinabove, including the hardware and circuitry  
17 drawings and designs and code, derived independent economic value from not being generally  
18 known as they provided Plaintiffs with information not known to competitors that Plaintiffs could  
19 incorporate into their products as a pioneer before competitors. Plaintiffs could thus incorporate  
20 superior technology into their products before competitors and gain a competitive advantage,  
21 establishing the ability to sell products, generate revenue, and generate profits.

22 56. Plaintiffs expended reasonable efforts to maintain the secrecy of the Trade Secrets,  
23 including the hardware and circuitry designs and drawings and software code, by requiring  
24 employees working on these Trade Secrets to sign confidentiality agreements, by password  
25 protecting the files and computers containing the relevant designs and drawings, and by  
26 communicating to staff the confidentiality of this information and need to maintain the same.  
27 Plaintiffs further erected anti-circumvention measures to prevent unauthorized access and use of its  
28 Trade Secrets.

1           57. Plaintiffs therefore owned valuable property in the Trade Secrets identified above,  
2 including confidential hardware and circuitry designs and drawings and software code.

3           58. On information and belief, Jinpeng Li misappropriated Plaintiffs' Trade Secrets by  
4 disclosing the designs and FPGA microchip and code to Yang Qi and ZaagTech.

5           59. On information and belief, Yang Qi and ZaagTech misappropriated Plaintiffs' Trade  
6 Secrets in or around January 2010 by acquiring the same with knowledge that Jinpeng Li had  
7 acquired the trade secret by improper means, namely, by breaching his duty to Plaintiffs to keep the  
8 designs and code secret. Further, on information and belief, Yang Qi and ZaagTech misappropriated  
9 Plaintiffs' Trade Secrets by using the same without Plaintiffs' consent, and because the Trade  
10 Secrets were obtained from Jinpeng Li who was under a duty not to disclose the Trade Secrets.

11           60. As a result of Jinpeng Li's disclosure and Yang Qi's and ZaagTech's acquisition and  
12 use of Plaintiffs' trade secrets, PQ Labs has suffered a loss in customers, sales, and profit, with  
13 related losses to its subsidiary PinQi. Yang Qi and ZaagTech have been able to create a competing  
14 product solely by misappropriating Plaintiffs' Trade Secrets. Without Jinpeng Li's, Yang Qi's, and  
15 ZaagTech's misappropriation of the Trade Secrets including the hardware designs and software,  
16 Yang Qi would not have been able to create ZaagTech as a competitor to PQ Labs, and PQ Labs  
17 would not have lost sales and profits to ZaagTech, with related losses to its subsidiary PinQi. The  
18 damages sustained by Plaintiffs as a result of the misappropriation of their Trade Secrets is ongoing  
19 and continuous because ZaagTech continues to sell competing products incorporating Plaintiffs'  
20 Trade Secrets. Plaintiffs are thus entitled to and pray for the relief of, among other things, an  
21 injunction preventing ZaagTech from selling touch screen products which incorporate the Trade  
22 Secrets, compensatory damages in the amount of profit lost as a result of the misappropriation,  
23 recovery of Yang Qi's, ZaagTech's, and Jinpeng Li's unjust enrichment as a result of the  
24 misappropriation, and punitive damages and attorneys' fees for the Defendant's willful and  
25 malicious misappropriation.

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**CLAIM 3 FOR COPYRIGHT INFRINGEMENT****BY PQ LABS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

61. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 60 of this Complaint as though fully set forth herein.

62. PQ Labs is the owner of the copyright registered with the Copyright Office as Registration No. TXu 1-620-335. The software embodied in this copyright registration entitled PQ Labs MultiTouch System Software collaborates with PQ Labs hardware circuitry and microchips to produce the user interface of its touch screen products. PQ Labs' copyright registered November 9, 2009. The software subject to the copyright is wholly original to PQ Labs and is copyrightable subject matter.

63. On information and belief, beginning in or around January 2010, Defendants Yang Qi, ZaagTech, and Jinpeng Li have engaged in copying, reproducing, adapting, distributing, and otherwise using the copyrighted material of PQ Labs' multi-touch system software in touch screen products developed and offered for sale by ZaagTech. Unless enjoined and restrained, said Defendants' conduct threatens to further infringe PQ Labs' copyright.

64. PQ Labs has never authorized said Defendants to copy, reproduce, adapt, distribute, or otherwise use its copyright protected multi-touch software, nor derivative works of said software.

65. Plaintiff is entitled to and prays for the relief of, among other things, an injunction restraining Yang Qi, Jinpeng Li, and ZaagTech and its officers, directors, employees, agents, representatives, and persons acting on their behalf from engaging in further acts of copyright infringement because irreparable harm is imminent as a result of said Defendants' conduct.

66. Plaintiff is further entitled to recover from said Defendants damages sustained by Plaintiff as a result of their copyright infringement. PQ Labs is unable to ascertain the extent of monetary damage sustained as a result of said Defendants' infringing activities, but is informed and believes such damage to exceed \$75,000. PQ Labs is also entitled to recover said Defendants' gains, profits, and unjust enrichment obtained as a result of their copyright infringement, as well as statutory damages and attorneys' fees. PQ Labs is informed and believes Defendants unjust enrichment to exceed \$75,000.

**CLAIM 4 FOR TRADEMARK INFRINGEMENT**  
**BY PQ LABS AGAINST ZAAGTECH**

67. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 66 of this Complaint as though fully set forth herein.

68. PQ Labs is the lawful and proper owner of the trademark PQ LABS and U.S. Registration No. 4075660 for the said trademark in International Class 009. The mark registered on December 27, 2011, and is currently still registered at the USPTO, valid, legally protected, and existing in full force and effect. *See* Exhibit H.

69. Defendant ZaagTech has used the PQ LABS mark in the advertising, promotion, and offering for sale of their own products. On at least the websites traddevv.com and hisupplier.com, Defendant has used the PQ LABS mark in connection with the sale of their touch screen products by asserting that ZaagTech is “PQ labs manufacturer and exporter in China” and “China PQ labs Manufacturer.”

70. Defendant’s flagrant use of the PQ LABS mark in advertising, promoting, and offering for sale ZaagTech touch screen products has never been authorized by PQ Labs in any way.

71. Defendant’s use of the PQ LABS trademark is likely to create confusion amongst consumers as to source, origin, affiliation, or sponsorship of the goods as Defendant uses Plaintiff PQ Labs’ PQ LABS mark in its entirety and identically to the mark as depicted in standard characters in Registration No. 4075660, and in connection with goods which are identical to those specified in Registration No. 4075660 and for which Plaintiff uses the mark, namely, touch screens, touch panels, and digital signage monitors, among others.

72. Plaintiff is entitled to and hereby requests an injunction restraining the Defendant from current and future infringement of PQ Labs’ trademark and allowing seizure and destruction of Defendant’s infringing goods. Plaintiff is also entitled recovery of attorneys’ fees due to Defendants’ willful and intentional infringement of PQ Labs’ trademark. Defendant acted with knowledge of PQ Labs’ rights and intended to infringe the PQ LABS mark and cause confusion amongst consumers as to connection with, and otherwise in respect of, the PQ LABS mark.

**CLAIM 5 FOR UNFAIR COMPETITION UNDER LANHAM ACT § 43**  
**BY PQ LABS AGAINST ZAAGTECH**

73. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 72 of this Complaint as though fully set forth herein.

74. Plaintiff PQ Labs owns the mark PQ LABS and a federal trademark registration for PQ LABS, Registration No. 4075660. PQ Labs' mark is distinctive for its goods including touch screens, and its registration is valid and in full force and effect. PQ Labs has continuously used the PQ LABS mark since at least as early as December 1, 2008 to identify the source of the said touch screen products.

75. Defendant ZaagTech is using the PQ LABS mark and name in its entirety in advertising, promoting, offering for sale, and selling ZaagTech products, stating that ZaagTech is "PQ labs manufacturer and exporter in China" and "China PQ labs Manufacturer" in promotional and advertising materials. Defendant's statements pertaining to being a manufacturer of PQ Labs are wholly false as PQ Labs has never contracted or authorized ZaagTech to act as its manufacturer, exporter, or in any other respect.

76. Defendant's use of the PQ LABS mark and false description of ZaagTech being a manufacturer of PQ Labs is likely to cause confusion or mistake, to deceive as to affiliation, connection, or association of Defendant with Plaintiff, and deceive as to source, sponsorship, or approval of Defendant's goods. By falsely stating that ZaagTech is manufacturer for PQ Labs, Defendant is causing confusion amongst consumers and deceiving consumers, who are likely to believe as a result of Defendant's statements and use of the PQ LABS mark and name that Defendant is affiliated with PQ Labs, is authorized to market and sell its products, and is marketing and selling PQ Labs' products, when none of these are true. Affiliation, connection, sponsorship, and approval of ZaagTech with PQ Labs and its products is precisely the implication of the false statements. Consumers are viewing this misinformation in the marketplace and will get the impression of connection between ZaagTech and PQ Labs and its products exactly because Defendant has stated that there is a connection, despite no such connection existing. Confusion and deception is further stoked by the fact that Defendant sells the same or substantially the same

1 products as Plaintiff, namely, touch screens, meaning that consumers are more likely to and will in  
2 fact believe the false statements of connection put forth by Defendant.

3 77. Plaintiff PQ Labs has suffered and continues to suffer irreparable harm from  
4 Defendant's unfair competition as consumers have been, and are being, misled into thinking they  
5 may obtain PQ Labs' products from the Defendant. PQ Labs thus seeks and is entitled to an  
6 injunction restraining the unfair competition and associated acts of Defendant including, *inter alia*,  
7 advertisements and statements of connection and affiliation with PQ Labs and its products.  
8 Additionally, the present case is an exceptional one warranting the award of attorneys' fees to PQ  
9 Labs.

10 **CLAIM 6 FOR FALSE ADVERTISING UNDER LANHAM ACT § 43**

11 **BY PQ LABS AGAINST ZAAGTECH**

12 78. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 77 of this  
13 Complaint as though fully set forth herein.

14 79. Defendant ZaagTech has misrepresented the nature, source, characteristics, qualities,  
15 and/or geographic origin of their touch screen products in commercial advertisements by posting that  
16 ZaagTech is a manufacturer for PQ Labs, and thus falsely stating that ZaagTech's products are  
17 manufactured for and sanctioned by PQ Labs on at least the websites tradvv.com and  
18 hisupplier.com. These website pages contain information about and specifications for ZaagTech  
19 touch screen products, advertise ZaagTech touch screen products, and offer the option to buy  
20 ZaagTech touch screen products with links for purchasing. PQ Labs has never authorized ZaagTech  
21 to be its manufacturer or exporter or sanctioned ZaagTech's products in any way.

22 80. Defendant's false statements of fact regarding its status as manufacturer or exporter  
23 for PQ Labs and Defendant's products being manufactured and exported for PQ Labs have the  
24 tendency to deceive a substantial segment of the statements' audience because Defendant and PQ  
25 Labs operate in the same industry where there is often collaboration between companies, and  
26 because the statements are unequivocal in falsely stating an association between Defendant and PQ  
27 Labs and their respective products.  
28

1           81.     The false and deceptive statements of Defendant are material to and likely to  
2 influence the purchasing decisions of consumers because PQ Labs is known in the touch screen  
3 industry for producing innovative touch screen products, including its G4 series, G3 series, and  
4 Multi-Touch Wall. PQ Labs has met with market success due to its cutting edge technology and  
5 designs. Defendant is attempting to associate itself with PQ Labs to trade on the good name and  
6 goodwill of PQ Labs and ride the coattails of PQ Labs' success in the touch screen market.  
7 Consumers will be influenced to purchase ZaagTech touch screens because of the asserted  
8 association with the good name of PQ Labs and its products.

9           82.     Defendant caused the misrepresentations to enter interstate commerce by posting its  
10 assertions of connection with PQ Labs on product listing pages on at least tradvv.com and  
11 hisupplier.com. These pages are viewable over the Internet by consumers throughout the U.S., and  
12 allow consumers to click links for purchasing the touch screen products from the product listing  
13 pages. Further, Defendant, a Chinese corporation, has caused these misrepresentations to enter the  
14 U.S. in foreign trade, which representations are viewable by U.S. consumers.

15           83.     PQ Labs has already been, and continues to be, injured by Defendant's false  
16 statements as PQ Labs has seen a reduction in customers and sales, and has had to lower its prices by  
17 30% starting in August 2011 in order to compete against Defendant's unlawful activities. PQ Labs  
18 will likely sustain further injury as a result of the false statements with continuing diversion of sales  
19 to the Defendants, and by lessening of the goodwill associated with PQ Labs' products.

20           84.     With a reduction in prices and sales, PQ Labs has already suffered, and continues to  
21 suffer, irreparable harm from Defendant's false advertising. Accordingly, PQ Labs requests as relief  
22 for, among other things, an injunction preventing further false advertising concerning PQ Labs and  
23 its PQ LABS trademark and touch screen products, and requiring a take down of all false advertising  
24 posted by Defendant online and anywhere else. PQ Labs also requests an award of reasonable  
25 attorneys' fees as this case is exceptional as defined under the Lanham Act.

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**CLAIM 7 FOR FALSE ADVERTISING UNDER CAL. BUS. & PROF. CODE § 17500****BY PQ LABS AGAINST ZAAGTECH**

85. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 84 of this Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33 through 40, and 45 through 60.

86. As set forth above, Defendant ZaagTech disseminated online advertising and product listings for ZaagTech touch screen products which falsely stated that ZaagTech is a manufacturer or exporter of PQ Labs and its products on the websites tradvv.com and hisupplier.com. On information and belief, Defendant knew these statements to be false and misleading because there has never been any affiliation of ZaagTech with PQ Labs or its products.

87. These untrue and misleading statements are likely to deceive the public and cause confusion as to source, origin, affiliation, and sponsorship of ZaagTech products by PQ Labs. The precise implication of the statement that ZaagTech is a manufacturer or exporter of PQ Labs is that consumers will believe there is a commercial relationship between the companies including, among other things, that ZaagTech manufactures and exports PQ Labs products, and thus consumers will be deceived. As alleged hereinabove, these false statements are critical to the buying decision as PQ Labs is a prominent name in the touch screen industry signaling quality and innovation, which name Defendant is trying to trade upon and thus usurp would-be customers of PQ Labs.

88. PQ Labs has suffered, and continues to suffer, irreparable harm as consumers view the false information disseminated by Defendant and believe the asserted connection between PQ Labs and ZaagTech, thereby damaging the unique quality of PQ Labs products and reputation of PQ Labs. PQ Labs is thus entitled to and seeks an injunction restraining all such false advertising being perpetrated by Defendants and requiring a take down of the same.

**CLAIM 8 FOR UNFAIR COMPETITION UNDER CAL. BUS. & PROF. CODE § 17200****BY PQ LABS AGAINST ZAAGTECH**

89. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 88 of this Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33 through 36, and 45 through 60.

1           90. Defendant ZaagTech has committed the acts alleged hereinabove, namely, using the  
2 PQ LABS trademark in online marketing and advertisements for ZaagTech touch screen products  
3 and online product displays offering for sale ZaagTech touch screen products without authorization  
4 by PQ Labs, and falsely stating that ZaagTech is a manufacturer or exporter of PQ Labs products.  
5 ZaagTech is not a manufacturer, exporter, or supplier for PQ Labs, and Defendant's statements are  
6 plainly false, misleading, and meant to trade on the goodwill of PQ Labs' name and brand in order to  
7 sell its own lesser known products. As set forth above, Defendant's acts constitute trademark  
8 infringement, unfair competition, and false advertising under the Lanham Act and false advertising  
9 under Cal. Bus. & Prof. Code §17500. Defendant's business acts are thus unlawful under both  
10 federal and state statutory law.

11           91. Defendant's business acts are further unfair and fraudulent as they are likely to  
12 deceive the public. In falsely stating a connection between PQ Labs and the ZaagTech touch screen  
13 products and between PQ Labs products and ZaagTech, Defendant is causing confusion and  
14 deception amongst consumers of such touch screen products. ZaagTech is not a manufacturer or  
15 exporter of PQ Labs products. By stating that ZaagTech is a manufacturer and exporter of PQ Labs  
16 products in online advertisements and product displays, Defendant is attempting to trade on the good  
17 name of PQ Labs to sell ZaagTech products. Because PQ Labs and ZaagTech are engaged in the  
18 same business of designing, manufacturing, and selling touch screen products, consumers are likely  
19 to rely on Defendant's false statements and believe there is a connection as purported by Defendant.  
20 On information and belief, the public has in fact relied on these statements and been deceived into  
21 purchasing ZaagTech products on the mistaken belief they were purchasing PQ Labs sponsored  
22 products.

23           92. Defendant has further engaged in untrue and misleading advertising by stating on  
24 online advertisements and product listings that ZaagTech is "PQ labs manufacturer and exporter in  
25 China" and that ZaagTech is "China PQ labs Manufacturer" on at least the websites tradvv.com and  
26 hisupplier.com. ZaagTech is not a manufacturer or exporter of PQ Labs or its products and PQ Labs  
27 has never authorized ZaagTech to associate its name with PQ Labs or its products in any way. The  
28 public is likely to be, and on information and belief has been, deceived by Defendant's false



1 advertising in purchasing ZaagTech's lesser known and inferior touch screen products on the basis  
2 of the asserted connection with the good name of PQ Labs and its products.

3 93. PQ Labs has been damaged by Defendant's unfair competition and false advertising  
4 and has suffered, and continues to suffer, irreparable harm as it loses sales, customers, and market  
5 share due to Defendant's false statements and use of PQ Labs trademark. PQ Labs therefore seeks  
6 an injunction restraining the aforesaid unlawful, unfair, and fraudulent activities of Defendants.

7 **CLAIM 9 FOR UNFAIR COMPETITION**

8 **BY PQ LABS AGAINST YANG QI AND HAIPENG LI**

9 94. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 93 of this  
10 Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33  
11 through 40, and 45 through 60.

12 95. Yang Qi and Haipeng Li created MultiTouch Group LLC to act as a sham distributor  
13 from which to siphon customers and orders from PQ Labs, waiting to receive misdirected orders  
14 from Yang Qi and taking a profit on each order fulfilled, thereby committing tortious interference  
15 with PQ Labs' prospective economic advantage in respect of prospective sales to its customers, as  
16 alleged herein.

17 96. Yang Qi and Haipeng Li represented to customers that they should contact  
18 MultiTouch Group LLC for taking and fulfillment of orders for PQ Labs products, holding out  
19 MultiTouch Group LLC as an authorized distributor of PQ Labs products when in fact it was not  
20 such an authorized distributor.

21 97. Customers have been, and likely continue to be, deceived by Yang Qi's and Haipeng  
22 Li's actions into thinking that MultiTouch Group LLC was authorized as a distributor to sell PQ  
23 Labs products, when in fact it had no such authorization.

24 98. Yang Qi and Haipeng Li have thus engaged in unfair competition by committing the  
25 alleged tortious interferences and associated fraudulent business acts and practices.

26 99. Yang Qi and Haipeng Li further engaged in unfair competition by committing unfair  
27 business acts and practices in establishing MultiTouch Group LLC as a sham distributor to fulfill  
28 misdirected orders from PQ Labs' customers. Defendants' unfair competition is demonstrated by,

1 among other things, the public policy against selling a business's products without its knowledge or  
2 authorization and against usurping a business's sales and profits. Said Defendants' motivation in  
3 creating MultiTouch Group LLC was to attain an unauthorized cut from PQ Labs' revenues and  
4 profits while engaging in unlawful activities to do so and not engaging in legitimate activity to  
5 warrant such a cut.

6 100. PQ Labs has suffered irreparable harm and damages as a result of the subject  
7 Defendants' tortious conduct and fraudulent and unfair business acts as PQ Labs lost a portion of  
8 gross sales and profits on products sold by MultiTouch Group LLC rather than directly by PQ Labs.  
9 PQ Labs is entitled to recover its damages sustained as a result of Defendants' unfair competition  
10 and the amount of said Defendants' unjust enrichment gained through their unfair competition, and  
11 may be further irreparably harmed if said Defendants continue the diversion of sales orders to  
12 themselves, entitling PQ Labs to injunctive relief to restrain said conduct.

13 **CLAIM 10 FOR VIOLATION OF CAL. PEN. CODE § 502**

14 **BY PLAINTIFFS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

15 101. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 100 of this  
16 Complaint as though fully set forth herein.

17 102. In or about January 2010, during Internet chat conversations, Jinpeng Li wrongfully  
18 utilized Plaintiffs' computer systems to transfer computer files and data to Yang Qi at Yang Qi's  
19 urging without Plaintiffs' authorization. In addition, Yang Qi, ZaagTech, and Jinpeng Li have sent  
20 several phishing emails to Plaintiffs, invading their computer network, seeking to extract  
21 confidential and proprietary information from Plaintiffs and their computer networks from January  
22 27, 2011 to December 13, 2011, as alleged above and particularly in Paragraph 41. The emails  
23 contained computer viruses and Trojans that would have infected Plaintiffs' computers and networks  
24 had they been opened and did so infect. By so doing, said Defendants did:

25 a. Knowingly access and without permission use Plaintiffs' data, computer, computer  
26 system, and computer network in order to wrongfully obtain Plaintiffs' property and files.

27 b. Knowingly access and without permission take, copy, and/or make use of data from  
28 PQ Labs' computer, computer system, and computer network.

1 c. Knowingly and without permission use and cause to be used Plaintiffs' computer  
2 services.

3 d. Knowingly and without permission provide and assist in providing a means of  
4 accessing Plaintiffs' computer, computer system, and computer network in violation of Cal. Pen.  
5 Code § 502.

6 e. Knowingly and without permission access and cause to be accessed Plaintiffs'  
7 computer, computer system, and computer network.

8 f. And knowingly introduce a computer contaminant into Plaintiffs' computer,  
9 computer system, and/or computer network.

10 103. These actions by the subject Defendants caused damage to Plaintiffs in the form of,  
11 among other things, loss of network usage and system and network bandwidth, as well as infection of  
12 Plaintiffs' computers and networks.

13 104. Said Defendants are thus liable pursuant to Cal. Pen. Code § 502(e) for such damages  
14 sustained by Plaintiffs as a result of Defendants' unlawful activities identified in this cause of action.  
15 Defendants' activities, including without limitation, providing a means of access to Plaintiffs'  
16 computer systems, are further subject to injunction restraining said activities.

17 **CLAIM 11 FOR UNFAIR COMPETITION**

18 **BY PLAINTIFFS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

19 105. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 104 of this  
20 Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33  
21 through 40, and 45 through 60.

22 106. On information and belief, in or about January 2010, during Internet chat  
23 conversations, Jinpeng Li wrongfully utilized Plaintiffs' computer systems to transfer computer files  
24 and data to Yang Qi at Yang Qi's urging without Plaintiffs' authorization. In addition, Yang Qi,  
25 ZaagTech, and Jinpeng Li have sent several phishing emails to Plaintiffs, invading its computer  
26 network, seeking to extract confidential and proprietary information from Plaintiffs and its computer  
27 networks from January 27, 2011 to December 13, 2011, as alleged above and particularly in  
28 Paragraph 41. The emails contained computer viruses and Trojans that would have infected and did

1 so infect Plaintiffs' computers and networks upon opening. By so doing, said Defendants committed  
2 the unlawful actions identified in the immediately preceding cause of action.

3 107. Defendants violated the public policy inherent in Cal. Pen. Code § 502 prohibiting the  
4 actions which Defendants committed in violation thereof, including without limitation, accessing  
5 Plaintiffs' computers to gain information without Plaintiffs' consent and, in doing so to gain  
6 information from Plaintiffs in order to establish a competitive business.

7 108. Plaintiffs have suffered harm as a result of Defendants' unlawful conduct and unfair  
8 competition in the form of lost use of, among other things, its computer networks. The motivation,  
9 reasons, and justifications behind the subject Defendants' conduct was to develop a separate  
10 business to compete in the touch screen business against Plaintiffs. The said Defendants' motivation  
11 was to steal Plaintiffs' proprietary information without its knowledge or consent.

12 109. Yang Qi, ZaagTech, and Jinpeng Li have therefore engaged in unfair competition by  
13 committing unfair and unlawful business acts and practices.

14 110. Plaintiffs have suffered past damages as a result of said Defendants' unfair business  
15 practices, and Plaintiffs are entitled to recover its damages sustained as a result of said Defendants'  
16 unfair competition, the amount of Defendants' unjust enrichment gained through their unfair  
17 competition, and an injunction restraining Defendants' continuing acts of unfair competition.

18 **CLAIM 12 FOR TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC**  
19 **ADVANTAGE**

20 **BY PQ LABS AGAINST YANG QI AND HAIPENG LI**

21 111. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 110 of this  
22 Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33  
23 through 40, and 45 through 60.

24 112. PQ Labs maintained business relationships with its customers advantageous to PQ  
25 Labs in which customers contacted PQ Labs regarding purchasing touch screen products and PQ  
26 Labs fulfilled customers' orders and requests. In addition, customer sales orders quoted at prices  
27 offered by PQ Labs for available inventory were routinely accepted by PQ Labs and thus constituted  
28 written contracts which were known to Yang Qi and Haipeng Li as alleged hereinabove.

1           113. During Yang Qi's employment at PQ Labs as sales and account manager, several  
2 customers contacted Yang Qi by email in his capacity as PQ Labs sales manager with sales orders  
3 requesting to buy PQ Labs products. Yang Qi was, of course, aware of these emails, as it was his  
4 duty to accept the orders on PQ Labs' behalf, thus confirming the contracts, and assisting in filling  
5 the orders. In each of these emails, a business relationship between the purchaser and PQ Labs was  
6 established in which PQ Labs was to benefit from the relationship in the form of a sale and further  
7 prospective economic gain that would result from future business with such customers. On  
8 information and belief, Haipeng Li was aware of this information by discussions with Yang Qi  
9 occurring in or about the time of the tortious interferences alleged herein.

10           114. As alleged hereinabove, Yang Qi diverted PQ Labs customer emails containing sales  
11 orders to MultiTouch Group LLC as a distributor of PQ Labs products that PQ Labs did not  
12 authorize. PQ Labs had no knowledge that Yang Qi had diverted these sales orders to MultiTouch  
13 Group LLC, and did not authorize MultiTouch Group LLC to act as its distributor in any way.

14           115. Yang Qi was aware and had knowledge of the customer sales order contracts and the  
15 general business relationship between PQ Labs and these customers as he served as sales  
16 representative for PQ Labs, completing orders between PQ Labs and the customers. Haipeng Li was  
17 aware of this information by discussions with Yang Qi occurring in or about the time of the tortious  
18 interferences alleged herein.

19           116. Yang Qi engaged in intentional conduct to disrupt the customer sales order contracts  
20 and business relationship and sales between PQ Labs and its customers by diverting the customers to  
21 MultiTouch Group LLC without PQ Labs' authorization or knowledge, instead of fulfilling the order  
22 directly through PQ Labs.

23           117. Without Yang Qi's interference, PQ Labs would have realized and completed the  
24 sales to the customers that Yang Qi diverted away. Further, PQ Labs would have realized its full  
25 profit on sales MultiTouch Group LLC made to customers.

26           118. PQ Labs' loss of sales and profit was proximately caused by Yang Qi's, Haipeng  
27 Li's, and MultiTouch Group LLC's interference.  
28

119. Yang Qi conspired with Haipeng Li in agreeing to create and in aiding and abetting the creation of MultiTouch Group LLC as a sham distributor of PQ Labs products. Aware of the wrongfulness of his actions in creating MultiTouch Group LLC, Haipeng Li advised Yang Qi in Internet chats to take care not to let his boss at PQ Labs find out about the distributor. Haipeng Li therefore is liable for the torts of Yang Qi committed in furtherance of their agreement to create the sham MultiTouch Group LLC distribution company and perpetuate the tortious interferences with PQ Labs' customer contracts and prospective economic advantage arising from those relationships.

120. Said Defendants have thus engaged in tortious interference with contract and prospective economic advantage, and PQ Labs is accordingly entitled to recover its damages in the amount of lost sales and profits suffered due to said Defendants' interference and the amount in unjust enrichment derived by Defendants' due to diversion of sales to MultiTouch Group LLC and otherwise.

121. Said Defendants' interference was tortious, malicious, outrageous, oppressive, fraudulent, made in bad faith, and in conscious disregard of PQ Labs' rights. Accordingly, in addition to general and compensatory damages, PQ Labs should be awarded exemplary and punitive damages sufficient to punish and make an example of said Defendants.

**CLAIM 13 FOR TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC  
ADVANTAGE**

**BY PQ LABS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

122. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 121 of this Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33 through 40, and 45 through 60.

123. PQ Labs, a designer, manufacturer, and seller of touch screen monitor products, maintained business relationships with its customers advantageous to PQ Labs in which customers contacted PQ Labs regarding purchasing touch screen products and PQ Labs fulfilled customers' orders and requests, with the ongoing prospect of sales and profits from these customer relationships. PQ Labs' relationships with certain of its customers and distributors were made publicly known through, among other means, publication on PQ Labs' website and on the Internet. These

relationships were separate from those key relationships and customer information which PQ Labs kept secret and obtained independent economic value from keeping secret.

124. Yang Qi, ZaagTech, and Jinpeng Li had knowledge of PQ Labs' relationships with its certain customers and distributors as a result of, among other things, Yang Qi's work as account manager with PQ Labs, Jinpeng Li's employment as an engineer with PQ Labs, and publication of the relationships on PQ Labs' website.

125. On information and belief, Defendants contacted the PQ Labs customers and distributors in an effort to lure the customers and distributors away from PQ Labs, thereby engaging in intentional conduct to disrupt PQ Labs' business relationships and prospective economic relations and benefits with and from its customers. Defendants acted to specifically and systematically target PQ Labs customers and distributors for solicitation and thereby divert PQ Labs' business to themselves. Defendants intended not to compete fairly by obtaining its own customers through legitimate competition, but to eliminate its competitor PQ Labs by intentionally interfering with PQ Labs' known business relationships.

126. The actions of said Defendants have actually, directly, and proximately caused damage to PQ Labs in the form of, *inter alia*, substantial lost customers, sales, and profits.

127. Defendants have thus engaged in tortious interference of prospective economic advantage and PQ Labs is entitled to recover its damages in the amount of lost sales and profits suffered due to Defendants' interference and the amount in unjust enrichment derived by Defendants' from customers and sales diverted from PQ Labs.

128. Said Defendants' interference was tortious, malicious, outrageous, oppressive, fraudulent, made in bad faith, and in conscious disregard of PQ Labs' rights. Accordingly, in addition to general and compensatory damages, PQ Labs should be awarded exemplary and punitive damages sufficient to punish and make an example of said Defendants.

#### **CLAIM 14 FOR BREACH OF CONTRACT**

#### **BY PINQI AGAINST JINPENG LI**

129. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 128 of this Complaint as though fully set forth herein.



1           130. PinQi and Jinpeng Li entered into valid contracts in the form of the Employment  
2 Contract and Employee Rules and Confidentiality Agreement dated July 3, 2009 (collectively, the  
3 “Jinpeng Li Contracts”).

4           131. PinQi has performed all its duties and obligations under the Jinpeng Li Contracts,  
5 including providing Jinpeng Li with employment and monetary compensation for Jinpeng Li’s  
6 employment.

7           132. On information and belief, during his employment in or around January 2010,  
8 Jinpeng Li breached Section 4 of the Employee Rules and Confidentiality Agreement by disclosing  
9 confidential information to Yang Qi in the form of trade secret drawings and diagrams of PinQi  
10 hardware and circuitry and software code.

11           133. As a proximate cause of this breach of contract by Jinpeng Li, PinQi has been  
12 damaged in an amount to be proven at trial in that, among other things, PinQi has lost sales, profits,  
13 and revenues to the competition of ZaagTech, created and competing using PinQi’s wrongfully  
14 disclosed confidential information. PinQi is entitled to recover Defendants’ unjust enrichment and  
15 its loss, as well as to an injunction restraining continuing breach by Jinpeng Li.

16                           **CLAIM 15 FOR BREACH OF FIDUCIARY DUTY**

17                           **BY PLAINTIFFS AGAINST YANG QI AND JINPENG LI**

18           134. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 133 of this  
19 Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33  
20 through 40, and 45 through 60.

21           135. Jinpeng Li signed the Jinpeng Li Contracts dated July 3, 2009 as alleged hereinabove  
22 to become an engineer and employee of PinQi, PQ Labs’ wholly-owned subsidiary. Jinpeng Li was  
23 thus an employee and agent of PinQi, and was in a fiduciary relationship with PinQi and PQ Labs  
24 during the period he worked for PinQi. As a fiduciary of Plaintiffs, Jinpeng Li owed Plaintiffs a  
25 duty of undivided loyalty.

26           136. Yang Qi further had a fiduciary duty to PQ Labs as its employee, sales representative,  
27 and agent. As alleged hereinabove, Yang Qi worked exclusively for the benefit of PQ Labs during  
28 his time as PQ Labs’ sales representative, and PQ Labs controlled the assignments and sales

1 accounts Yang Qi handled. Yang Qi accepted the duty of confidentiality and trust reposed in him by  
2 PQ Labs by, among other things, signing an agreement to maintain confidentiality with the company  
3 22 Miles, Inc., which also required maintenance of confidentiality with PQ Labs, the company for  
4 whose benefit Yang Qi worked. Due to the nature of Yang Qi's relationship with PQ Labs and his  
5 acceptance of PQ Labs' repose of trust in him, Yang Qi was a fiduciary of PQ Labs and thus owed  
6 PQ Labs a duty of undivided loyalty.

7 137. On information and belief, Yang Qi and Jinpeng Li knowingly acted against  
8 Plaintiffs' interests and breached their duty of undivided loyalty by engaging in active competition  
9 against Plaintiffs while fiduciaries of Plaintiffs. Yang Qi and Jinpeng Li began their plan to create a  
10 competing touch screen business in or about January 2010, while Jinpeng Li was still an employee  
11 of PinQi and while Yang Qi was still working for PQ Labs' benefit as accounts manager, that is,  
12 while both were still fiduciaries of Plaintiffs. At this time, Defendants acted against the interests of  
13 Plaintiffs by, among other things, creating ZaagTech, or the nascent entity that would become  
14 ZaagTech, to compete directly against Plaintiffs in the touch screen industry.

15 138. Plaintiffs did not give consent to Yang Qi's or Jinpeng Li's actions of directly  
16 competing against Plaintiffs.

17 139. Plaintiffs have been harmed as a result of the foregoing breaches of fiduciary duty  
18 because, among other things, Yang Qi and Jinpeng Li created ZaagTech to actively compete against  
19 PQ Labs, and ZaagTech has competed with PQ Labs and succeeded in taking and undermining PQ  
20 Labs' customer relationships, business, sales, revenues and profits through sales of a competing  
21 product and associated activities, with corresponding losses to PinQi.

22 140. Yang Qi's and Jinpeng Li's actions were substantial factors in causing Plaintiffs'  
23 harm as Plaintiffs saw a distinct dropoff in sales and revenue immediately on entry of ZaagTech into  
24 the market, during which time Defendants not only directly competed with PQ Labs, but specifically  
25 targeted PQ Labs in an effort to drive it from the market. Plaintiffs are accordingly entitled to their  
26 damages suffered as a result of Yang Qi's and Jinpeng Li's breaches of fiduciary duty.

27 141. Yang Qi's and Jinpeng Li's breaches of fiduciary duty were tortious, malicious,  
28 outrageous, oppressive, fraudulent, made in bad faith, and in conscious disregard of Plaintiffs' rights.

1 Accordingly, in addition to general and compensatory damages, Plaintiffs should be awarded  
 2 exemplary and punitive damages sufficient to punish and make an example of said Defendants.

3 **CLAIM 16 FOR FRAUDULENT CONCEALMENT**

4 **BY PQ LABS AGAINST YANG QI**

5 142. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 141 of this  
 6 Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33  
 7 through 40, and 45 through 60.

8 143. From 2009 to 2010 or thereabout, Yang Qi was engaged in a confidential, contractual,  
 9 and agency relationship with PQ Labs to serve as account manager and provide services in selling  
 10 PQ Labs' products as a result of which relationship Yang Qi had a fiduciary duty to disclose to PQ  
 11 Labs any unlawful actions or other misconduct that were in dereliction of Yang Qi's work  
 12 responsibilities to PQ Labs or otherwise damaged and/or compromised PQ Labs' business. This  
 13 duty was part of Yang Qi's duty of undivided loyalty to and fiduciary relationship with PQ Labs  
 14 arising from the nature of his relationship with PQ Labs and PQ Labs' repose of trust and confidence  
 15 in him.

16 144. As alleged hereinabove, Yang Qi knowingly diverted PQ Labs customer emails  
 17 containing sales orders to MultiTouch Group LLC as a distributor of PQ Labs products that PQ Labs  
 18 did not authorize. PQ Labs had no knowledge that Yang Qi had diverted these sales orders to  
 19 MultiTouch Group LLC, and did not authorize MultiTouch Group LLC to act as its distributor in  
 20 any way. Yang Qi intended to induce PQ Labs' reliance on his conduct as being lawful and proper,  
 21 and PQ Labs reasonably relied on Yang Qi's conduct, believing his efforts to be loyal and true.

22 145. At no point in time did Yang Qi advise PQ Labs or any of its officers or employees  
 23 about the important facts of the diversion of the sales requests to MultiTouch Group LLC, or of  
 24 MultiTouch Group LLC's existence as a purported distributor for PQ Labs. PQ Labs had no  
 25 knowledge that Yang Qi had diverted the purchase orders to MultiTouch Group LLC, and did not  
 26 authorize MultiTouch Group LLC to act as its distributor in completing orders. Had PQ Labs known  
 27 of the true facts underlying the diversion of these purchase orders, it never would have permitted  
 28 such diversion. Yang Qi therefore engaged in a fraudulent concealment in failing to inform PQ Labs

1 of the existence of MultiTouch Group LLC as distributor and Yang Qi's actions in diverting sales  
2 away from PQ Labs. Yang Qi's concealment was in dereliction of his fiduciary duty to PQ Labs  
3 requiring him to refrain from acting against the interests of PQ Labs.

4 146. These failures to disclose by Yang Qi to PQ Labs were material because PQ Labs,  
5 had it had knowledge, would not have allowed MultiTouch Group LLC to act as its nominal  
6 distributor or Yang Qi to divert sales away from PQ Labs, and MultiTouch Group LLC damaged PQ  
7 Labs by usurping a portion of profits on its sales and directing customers away from buying from PQ  
8 Labs directly.

9 147. Yang Qi made these concealments with knowledge of the material omissions and  
10 with intent to deceive PQ Labs into relying on the material omissions. Among other things, Yang Qi  
11 never advised PQ Labs of the creation or existence of MultiTouch Group LLC, despite being  
12 engaged as an account and sales manager. Further, Internet chats between Yang Qi and third parties  
13 demonstrate that Yang Qi intended to induce PQ Labs to rely on the omissions in order for the sham  
14 distributor to exist and take in ill-gotten profit. In a chat January 19, 2010 with Haipeng Li, Yang  
15 Qi stated that he works too much for PQ Labs but earns too little, intending to take a profit on PQ  
16 Labs' sales without expending any additional effort, besides forwarding sales requests to  
17 MultiTouch Group LLC.

18 148. PQ Labs reasonably relied on Yang Qi's material omission of the existence and  
19 actions of MultiTouch Group LLC and to its detriment by allowing the diverted purchase orders to  
20 proceed. In so relying, PQ Labs had sales diverted from it, and lost profits on products.

21 149. Yang Qi's fraudulent concealment entitles PQ Labs to recovery of all damages  
22 suffered as a result of the fraud, including lost sales and profits, as well as Yang Qi's and  
23 MultiTouch Group LLC's ill-gotten gain obtained by Yang Qi's fraud.

24 150. Yang Qi's concealment was tortious, malicious, outrageous, oppressive, fraudulent,  
25 made in bad faith, and in conscious disregard of PQ Labs' rights. Accordingly, in addition to  
26 general and compensatory damages, PQ Labs should be awarded exemplary and punitive damages  
27 sufficient to punish and make an example of said Defendant.  
28

**CLAIM 17 FOR CONVERSION****BY PQ LABS AGAINST YANG QI AND HAIPENG LI**

151. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 150 of this Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33 through 40, and 45 through 60.

152. PQ Labs owned and possessed a certain 32-inch touch screen monitor entitled PQ Labs Multi-Touch 32" G3X32 Overlay involved in a sales transaction with a PQ Labs customer dated February 10, 2010.

153. Yang Qi and Haipeng Li individually and through their company MultiTouch Group LLC intentionally and substantially interfered with the 32-inch touch screen monitor by taking possession of the property and fulfilling an order request sent directly to PQ Labs.

154. PQ Labs did not consent to Defendants' taking possession of the touch screen product and acting as its distributor, nor did PQ Labs have knowledge of Defendants' actions.

155. PQ Labs was harmed by Defendants' conduct as MultiTouch Group LLC took payment of the full retail price of \$3,300 while paying to PQ Labs a wholesale price of \$2,650. PQ Labs would have realized the full profit of \$3,300 instead of \$2,650 but for Defendants' interference, which was a substantial factor in causing PQ Labs' harm.

156. Plaintiff is entitled to recovery of its damages sustained due to Defendants' conversion of its property.

**CLAIM 18 FOR TRESPASS TO CHATTELS****BY PLAINTIFFS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

157. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 156 of this Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33 through 40, and 45 through 60.

158. Plaintiffs have owned and possessed personal property in the form of their computer networks and email systems from their incorporation to present.

159. On information and belief, Yang Qi, ZaagTech, and Jinpeng Li intentionally interfered with Plaintiffs' use and possession of their computer networks and systems by sending

phishing emails to Plaintiffs seeking to extract confidential and proprietary information beginning on or about January 27, 2011 continuing to December 13, 2011.

160. Plaintiffs did not consent to said Defendants' interference with their personal property.

161. Plaintiffs suffered harm as a result of said Defendants' interference by, *inter alia*, compromise of their security, lost access to the full capacity of their computer networks and systems, and by potential and actual infection of their networks by computer viruses and Trojans contained in the phishing emails.

162. The subject Defendants' interference with Plaintiffs' property was a substantial factor in causing Plaintiffs' harm, and Plaintiffs are therefore entitled to recover their damages sustained in an amount to be proven at trial.

**CLAIM 19 FOR VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT**

**BY PLAINTIFFS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

163. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 162 of this Complaint as though fully set forth herein.

164. On information and belief, Yang Qi, ZaagTech, and Jinpeng Li intentionally accessed Plaintiffs' computers by, among other things, sending phishing emails to Plaintiffs' employees between January 2011 and December 2011, as alleged hereinabove.

165. Plaintiffs' computers accessed by Defendants are used in interstate commerce in the sale of PQ Labs' products and are thus protected computers within the meaning of the federal Computer Fraud and Abuse Act.

166. Yang Qi and ZaagTech intentionally accessed Plaintiffs' protected computers without the authorization of Plaintiffs.

167. As a result of Defendants' unauthorized access, on information and belief, Plaintiffs have suffered damage and loss in excess of the statutory amount in the form of, among other things, lost use of their computers networks and bandwidth and computer infection. This loss of computer networks and bandwidth and computer infection was caused directly by the phishing emails sent by Defendants as the emails carried viruses and Trojans which infected Plaintiffs' computers on at least

one occasion upon being opened by recipients. Plaintiffs' are entitled to recovery of their damages resulting from Defendants' actions, as well as an injunction restraining further unauthorized access of their computers and networks.

#### **CLAIM 20 FOR UNFAIR COMPETITION**

##### **BY PLAINTIFFS AGAINST YANG QI, ZAAGTECH, AND JINPENG LI**

168. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 167 of this Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33 through 40, and 45 through 60.

169. Defendants have engaged in a systematic plan to usurp substantial business from PQ Labs and drive PQ Labs and its subsidiary PinQi from the touch screen industry by specifically targeting PQ Labs' known customers for solicitation and actual sales. Defendants have so acted by, *inter alia*, sending solicitation emails to PQ Labs' known customers in an attempt to steal business away from PQ Labs, and in actually taking substantial business from PQ Labs. In doing so, Defendants' intent has been to establish a competing touch screen business without incurring the effort of obtaining customers through fair and natural competition.

170. There is a public policy against newly established competitors entering into the marketplace and unfairly obtaining a foothold in the market simply by targeting a certain competitor's known customers, usurping substantial business directly from the competitor, and driving the competitor from the market. To allow such action would incentivize competition through negative, reductive action rather than positive action and innovation. The harm of such action to the victim, here Plaintiffs, outweighs the benefits to the actor, here Yang Qi, ZaagTech, and Jinpeng Li. Defendants have thus engaged in unfair competition by committing an unfair business act or practice.

171. Plaintiffs have suffered irreparable harm as well as past and continuing damages as a result of the subject Defendants' unfair business acts as alleged above. Plaintiffs are entitled to recover their damages sustained as a result of said Defendants' unfair competition, the amount of Defendants' unjust enrichment gained through their unfair competition, and an injunction restraining Defendants' continuing acts of unfair competition.



**CLAIM 21 FOR UNFAIR COMPETITION**

**BY PLAINTIFFS AGAINST YANG QI AND JINPENG LI**

172. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 171 of this Complaint as though fully set forth herein, excluding Paragraphs 19 through 20, 23 through 24, 33 through 40, and 45 through 60.

173. While still engaged by Plaintiffs and still fiduciaries of Plaintiffs, Defendants Yang Qi and Jinpeng Li engaged in action to establish a competitor in the touch screen industry, ZaagTech. This action began in or around January 2010 when Yang Qi and Jinpeng Li engaged in Internet chat conversations establishing their plan to usurp and interfere with Plaintiffs' business and establishing a nascent ZaagTech to compete directly with PQ Labs.

174. In directly competing against Plaintiffs while still fiduciaries, Yang Qi and Jinpeng Li not only acted unlawfully in breaching their fiduciary duty to Plaintiffs, but also competed unfairly in committing an unfair business act or practice. The harm to Plaintiffs of Defendants' actions clearly outweigh the benefits as their directly competitive actions have served to divert substantial business, sales, and customers from PQ Labs to ZaagTech, business PQ Labs was able to obtain without breaching any fiduciary duty and without engaging in any similar malfeasance. Defendants have violated a public policy against directly competing with one to whom a fiduciary duty is owed, and thus have engaged in an unfair business act or practice by established ZaagTech as a competitor to Plaintiffs.

175. Plaintiffs have suffered irreparable harm as well as past and continuing damages as a result of the subject Defendants' unfair business acts as alleged above. Plaintiffs are entitled to recover their damages sustained as a result of said Defendants' unfair competition, the amount of Defendants' unjust enrichment gained through their unfair competition, and an injunction restraining Defendants' continuing acts of unfair competition.

**ALLEGATIONS COMMON TO EACH CLAIM**

**CIVIL CONSPIRACY**

176. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 175 of this Complaint as though fully set forth herein.

177. Defendants and each of them did agree, conspire, plan, and effectuate a common plan and scheme to misappropriate Plaintiffs' proprietary information in order to establish a new business to compete directly with PQ Labs, poach PQ Labs customers, interfere with PQ Labs business and divert the same to ZaagTech and otherwise for Defendants' commercial gain. Defendants did the acts and things herein alleged pursuant to, and in furtherance of, the conspiracy and above-alleged Plan. Each of the Defendants furthered the conspiracy by cooperating with, lending aid and encouragement to, and/or by ratifying and adopting acts of other Defendants, as alleged above. Specifically, Yang Qi and Jinpeng Li, officers of ZaagTech, conspired, as evidenced by Internet chat logs, beginning January 2010 to establish ZaagTech as a competitor, engaging in action to perpetuate the conspiracy including disclosure and use of Plaintiffs' Trade Secrets to produce ZaagTech touch screen products and use of PQ Labs trade secret customer information to poach PQ Labs' customers. Yang Qi and Haipeng Li acted to divert sales from PQ Labs in furtherance of the Plan to take away business from PQ Labs and compete with PQ Labs. Each Defendant explicitly agreed in the January 2010 Internet chats to participate in the conspiracy against PQ Labs. Each Defendant had knowledge of the planned wrongful conduct as Yang Qi discussed his Plan in Internet conversations with Jinpeng Li and Haipeng Li, specifically about his desire to usurp sales from PQ Labs, and establish a business in competition with PQ Labs and intent to use Plaintiffs' proprietary information to do so. Haipeng Li even mentioned in said chats that the Defendants should take care to keep details of the Plan secret from Yang Qi's superiors at PQ Labs.

178. Each of the causes of action alleged above, Claims 1 through 21, was perpetrated by Defendants in furtherance of their conspiracy, namely, the Plan to usurp business from PQ Labs and establish ZaagTech as a competitor to PQ Labs using Plaintiffs' proprietary information. Therefore, each Defendant is liable for each cause of action, even if an individual Defendant did not actively participate in every aspect of the wrongdoing alleged for each individual cause of action.

179. As a proximate result of the wrongful acts herein alleged, Plaintiffs have been generally and specially damaged, as alleged in each of the causes of action set forth above.

180. In doing the things herein alleged, Defendants acted with malice, oppression, and/or fraud as defined under Cal. Civ. Code § 3294, as specifically alleged above, in conscious disregard

1 of Plaintiffs' rights, warranting an assessment of exemplary and punitive damages in an amount  
 2 appropriate to punish each of the Defendants and deter others from engaging in similar misconduct.

### 3 **ALLEGATIONS COMMON TO EACH CLAIM**

#### 4 **AIDING AND ABETTING**

5 181. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 180 of this  
 6 Complaint as though fully set forth herein.

7 182. Plaintiffs have been harmed by the torts and wrongdoing committed by Defendants as  
 8 alleged hereinabove, including the subject Defendants' misappropriation of trade secrets, copyright  
 9 infringement, trademark infringement, false advertising, unfair competition, fraud, tortious  
 10 interference with contract and prospective economic advantage, breach of fiduciary duty,  
 11 conversion, and trespass to chattels.

12 183. Defendants and each of them gave substantial assistance and encouragement to one or  
 13 more of the intentionally tortious actions of other Defendants alleged hereinabove, with knowledge  
 14 that the other Defendants' conduct constitutes a wrongful action, and did so by, *inter alia*,  
 15 cooperating with each other, assisting each other, and/or failing to conduct themselves in a fashion  
 16 requisite to protect Plaintiffs' interests or to avoid any adverse effect on Plaintiffs where the other  
 17 Defendants had a fiduciary duty to Plaintiffs. Specifically, Haipeng Li gave assistance to Yang Qi in  
 18 creating MultiTouch Group LLC by helping to register the sham distributor and diverting sales to the  
 19 sham distributor, and thereby also assisted the Defendants in their wrongdoing of misappropriating  
 20 and using PQ Labs' proprietary information to unfairly compete with PQ Labs, all in furtherance of  
 21 the Defendants' Plan of diverting business from PQ Labs to themselves. Yang Qi and Jinpeng Li  
 22 assisted each other, and by consequence ZaagTech, for which both serve as officers, in committing  
 23 the above-alleged wrongdoing by sharing confidential, proprietary, and trade secret information and  
 24 documents of Plaintiffs between each other in order to establish a competing business unfairly and  
 25 steal sales and customers away from PQ Labs.

26 184. Each of the causes of action alleged above, Claims 1 through 21, was perpetrated by  
 27 the Defendants with the assistance of each of the Defendants and in furtherance of the Plan described  
 28 hereinabove to unfairly compete with PQ Labs and poach sales and customers from PQ Labs, both

1 through the creation of ZaagTech and competing touch screen products, and diversion of sales  
2 opportunities to the sham distributor MultiTouch Group LLC.

3 185. By conducting themselves as alleged hereinabove, Defendants acted not only for the  
4 collective advantage of themselves, but also to promote their own individual advantages.

5 186. As a proximate result thereof, Plaintiffs have been damaged in a sum in excess of the  
6 Court's jurisdictional limits and in an exact sum to be proved at trial, and each of the Defendants is  
7 liable for the intentionally tortious actions of the Defendants being aided and abetted.

8 187. Defendants are guilty of oppression, fraud, and malice toward Plaintiffs within the  
9 meaning of Cal. Civ. Code § 3294 such that Plaintiffs are entitled to an award of punitive damages.

### 10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray for judgment against Defendants and each of them as follows:

12 1. For compensatory damages for sales, profits, and business lost as a result of  
13 Defendants' misappropriation of Plaintiffs' trade secrets, including their confidential customer lists  
14 and proprietary hardware designs and software code.

15 2. For preliminary and permanent injunctive relief against Defendants requiring  
16 Defendants and their agents, servants, and employees, and all persons acting under, in concert, or for  
17 them:

18 a. To refrain from:

19 i. Using for themselves or anyone else or disclosing to anyone else PQ Labs'  
20 confidential customer lists and information and contacting PQ Labs' customers, Plaintiffs'  
21 proprietary hardware designs and software code and other trade secrets, selling touch screen  
22 products which incorporate Plaintiffs' trade secrets or otherwise utilize the ill-gotten gains of  
23 Defendants' wrongful conduct, and using or disclosing any other confidential or trade secret  
24 information, including but not limited to specifications, customers lists, material lists, business plans,  
25 marketing strategies, and/or other proprietary information of Plaintiffs (collectively, the "Proprietary  
26 Information").

27 ii. Engaging in any efforts to commercially exploit Plaintiffs' Proprietary  
28 Information or to disrupt Plaintiffs' business pertaining thereto, including but not limited to

1 contacting or otherwise communicating with any actual or potential customer of Plaintiff or any  
2 actual or potential vendor of Plaintiff PQ Labs.

3           iii.     Communicating, transferring, or divulging any confidential or trade secret  
4 information or other Proprietary Information of Plaintiffs.

5           iv.     Misappropriating Plaintiffs' confidential information or trade secrets or other  
6 Proprietary Information, or engaging in any unfair competition, or interfering in Plaintiffs' business,  
7 actual or prospective, in any other way.

8           v.     Selling touch screen products which incorporate Plaintiffs' trade secrets or  
9 otherwise utilize the ill-gotten gains of Defendant's wrongful conduct.

10          vi.     Assisting, aiding, or abetting any other person or business entity in engaging  
11 in any of the activities prohibited pursuant to the injunctions requested above or otherwise set by the  
12 Court.

13          b.     To turn over to Plaintiffs:

14           i.     Any and all copies in any format, whether hard copy or electronic, of  
15 Plaintiffs' Trade Secrets and other Proprietary Information, including without limitation computer  
16 files containing schematics and design drawings for circuitry and hardware for PQ Labs touch screen  
17 prototypes and products and multi-touch software code, customer lists, and customer information.

18           ii.    Any and all copies in any format, whether hard copy or electronic, of any and  
19 all communications with any actual or potential customer of PQ Labs and any and all  
20 communications with any vendor of Plaintiffs.

21           iii.   Any and all other property belonging to Plaintiffs.

22          3.     For an order requiring Defendants to show cause, if they have any, why they should  
23 not be enjoined as set forth hereinabove during the pendency of this action.

24          4.     For damages in the amount of the unjust enrichment Defendants have derived from  
25 the misappropriation of Plaintiffs' trade secrets, including customer lists and confidential hardware  
26 designs and software code, and their other tortious conduct.

27 //

28 //

1           5.       For punitive damages and attorneys' fees for Defendants' willful and malicious  
2 misappropriation of Plaintiffs' trade secrets, and for punitive damages for Defendants' other tortious  
3 conduct found to be malicious, oppressive, and fraudulent, as specifically alleged above.

4           6.       For compensatory damages for Defendants' infringement of Plaintiff's copyrights.

5           7.       For preliminary and permanent injunctive relief against Defendants restraining any  
6 and all continuing and future infringement of Plaintiff's copyrights.

7           8.       For statutory damages pursuant to the Copyright Act for Defendants' infringement of  
8 Plaintiff's copyrights.

9           9.       For attorneys' fees incurred in prosecuting the present action by PQ Labs as a result  
10 of Defendants' infringement of Plaintiff's copyrights.

11          10.      For preliminary and permanent injunctive relief restraining Defendants from using  
12 PQ Labs' trademark on or in connection with the sale, offering for sale, or advertising of PQ Labs'  
13 goods, and allowing seizure and destruction of any good or advertisement of Defendants improperly  
14 using PQ Labs' trademark, and restraining all false advertising involving PQ Labs' trademark and  
15 any and all further unfair competition by Defendants involving PQ Labs' trademark.

16          11.      For attorneys' fees incurred in prosecuting to obtain relief due to Defendants'  
17 trademark infringement, false advertising, and unfair competition.

18          12.      For compensatory and punitive damages for Yang Qi's fraudulent concealment.

19          13.      For compensatory and punitive damages arising from PQ Labs' loss sustained as a  
20 result of Defendants' tortious interference with prospective economic advantage, and injunctive  
21 relief restraining Defendants from engaging in further acts of interference with PQ Labs' customer  
22 orders, contracts, and business relations.

23          14.      For compensatory damages, recovery of unjust enrichment, and injunctive relief  
24 restraining further breach for Jinpeng Li's breach of the Jinpeng Li Contracts.

25          15.      For compensatory damages for loss sustained and for punitive damages as a result of  
26 Yang Qi's and Jinpeng Li's breaches of fiduciary duty.

27          16.      For compensation of damages for loss sustained by Plaintiffs to their computers,  
28 networks, and systems and for punitive damages as a result of Defendants' accessing, interfering

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San Jose, California 95113

with, and providing a means of accessing Plaintiffs' computers and networks, and for injunctive relief restraining Defendants from invading, accessing, and interfering with Plaintiffs' computers and networks.

17. A judgment and order requiring Defendants to pay such other damages as the Court deems fit under the circumstances, or as may be sought by Plaintiffs according to proof at trial.

18. A judgment and order sustaining each of the causes of actions set forth herein against Defendants.

19. Attorneys' fees, costs, and expenses as allowed by law.

20. Any and all other relief as the Court deems just and reasonable.

Dated: February 3, 2014

Respectfully submitted,

By: /s/ Otto O. Lee

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Attorneys for Plaintiffs PQ LABS, INC. and  
SHANGHAI PINQI DIGITAL TECHNOLOGY  
CO., LTD.



**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a jury trial as to all issues in this lawsuit.

Dated: February 3, 2014

Respectfully submitted,

By: /s/ Otto O. Lee

Otto O. Lee

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SHANGHAI PINQI DIGITAL TECHNOLOGY  
CO., LTD.

**CERTIFICATE OF SERVICE**

I certify that on February 3, 2014, I electronically filed the foregoing 3<sup>rd</sup> Amended Complaint and Demand for Jury Trial with the Clerk of Court using the CM/ECF system, which will provide notification of such filing by email to the following:

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